

Michigan Medicaid Long Term Care Task Force

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DRAFT MINUTES Monday, September 13, 2004 House Office Building Mackinac Room Lansing, Michigan

Members Present: M. Moers, Senator Hammerstrom, M. Hardy, T. Wong, J. Olszewski, D. Hoyle, R. Chaney, J. Sutton, T. Czerwinski, R. Carter, J. Mendez, S. Steinke, Y. McKinney, R. Alcodray-Khalifa, Senator Cherry, M. Cody

Members Absent: G. Betters

Other: Susan Martin for Representative Shaffer, Kirsten Fisk for Representative Gillard, Patrice Eller for M. Udow, Peggy Brey for Sharon Gire, and Amy Slonim, Michigan Public Health Institute, facilitator.

Call to Order: The fourth meeting of the Medicaid Long Term Care Task Force was called to order at approximately 10:00 a.m. by Chairperson Chaney. R. Chaney noted that the task force has added a December 13th meeting date. Questions regarding travel reimbursement and task force email problems should be addressed to John Hazewinkel.

Review and Approval of Agenda: M. Cody's presentation of the Eager Settlement was moved to 2pm, instead of the scheduled 11am. S. Steinke's presentation of Workgroup A was moved to 11am instead of 2pm. A motion to approve the agenda, as revised, was made by J. Mendez, and seconded by J. Olszewski. The revised agenda was accepted.

Review and Approval of August 9 Minutes: A motion to support the August 9, 2004, minutes, as presented, was made by M. Moers, and seconded by M. Hardy. The minutes were approved.

LTC Services and Supports Offered Through OSA: R. Chaney introduced presenters Holliace Spencer and Scott Wamsley from the Office of Services for the Aging. They provided an overview of the office and a description of the services available through the aging network.

The presentation included a demographic profile of the individuals served, and an explanation of service delivery patterns from fiscal year 2003. They described the recently updated federal data system, NAPIS, that is used to report to the administration on aging on the Older Americans Act. NAPIS is one component of an Aging Information System designed to be a one-stop shop for program reporting, whether it is for state or federal reporting purposes. NAPIS is an internet-based system and allows for a variety of

reporting options in terms of looking at clients, services, where people live, and trends in service delivery.

A brief budget overview of OSA was presented. The current agency budget is approximately \$91,000,000, a number which does not reflect all the local match or local agency millage funding being allocated for senior programs. In FY 2003, approximately 448,000 clients were served, of which 140,000 are in 'registered services,' or service categories which require collection of personal information about the recipient. The remaining clients are in non-registered services. OSA funds a variety of community-based services which resulted in 46,000 clients being served in community services last year. Approximately 35 different services categories are funded under standardized service definitions in the areas of access, caregiver, community, and in-home services. The network routinely provides about 12 million meals each year. In 2003, nearly 1 million units of care management case coordination and support, chore, homemaker, personal care, and other in-home services were provided, in addition to about 1 million units of community services such as counseling and disease prevention, elder abuse prevention, health screening, home repair, and home injury control.

R. Chaney wanted to clarify that clients in the OSA programs are not required to be Medicaid eligible. OSA confirmed that federal and state funded aging programs are not means tested.

Senator Cherry asked about the waiting lists for the services. Scott Wamsley responded by saying that in 2003, there were approximately 1500 to 1800 clients statewide on waiting lists for in-home services and 600 to 700 clients statewide on waiting lists for home delivered meals. Waiting lists exist in some areas of the state and not in others, depending on the availability of local millage resources.

D. Hoyle asked if the "guardianship" was considered a service as indicated on the list Cluster III services. OSA explained that eligible service categories and reporting requirements are set by the federal Older Americans Act. Not all listed services are funded in the State of Michigan. programs and they do define this as a service based upon the specific service definition.

New Business:

1. **Workgroup A Report:** S. Steinke presented the status of Workgroup A activity. As of September 13th the workgroup had developed principles which include, but are not limited to: 1) Money follows the person, 2) Single Point of Entry at local or region levels, 3) consumer-centered and user-friendly access, 4) Universal assessment and screening tools used regardless of SPE, and 5) all systems need to be HIPAA compliant. S. Steinke noted a need to operationalize some of the adopted concepts including 6) phased-in implementations, 7) a standard set of criteria set by the State for what and how the SPE agency will look like, and the locally or regionally determination as to which agency(ies) to recommend to the State for approval. There needs to

be: 8) an appeals process (with the assumption that this will be included as one of the standard criteria). It should have an internal and external component as well as monitoring and resolution. There should be: 9) quality assurance function that includes but is not limit to measures of consumer satisfaction, 10) there should be an outside advocate on behalf of what the person wants, and build in as much control and choice as possible through person centered planning. The other actions discussed were having a state agency or individual identified that should lead the long-term care effort. Next steps of the workgroup would be to meet the charge of coming up with specific steps and build those out. Workgroup A is going on retreat October 5th and ½ day on October 6th and are going to form a planning committee.

2. Discussion of Workgroup A by Full Task Force: Senator Cherry asked if Workgroup A was looking at specific criteria for person centered planning and are they recognizing the flexibility of services for clients needs. Senator Hammerstrom wanted to know about the standard set of criteria, whether the standards would allow for future flexibility, and whether they could be addressed in rules or legislation. It was noted that there are ways to provide flexibility using either mechanism, but that the group must also consider the element of enforcement. S. Steinke indicated that the workgroup will be looking at the best place to make it happen; whether it is a combination of rules and legislation or just one of those. She stated that they want to create the framework and go from there. T. Czerwinski asked how the SPE would work with aging network system. S. Steinke indicated that the system would be designed to serve any person that needs long-term care services--birth to death. T. Czerwinski also asked how the approximately 400,000 clients of OSA would be anticipated to flow through the SPE, and what impact this number would have on the system. This is a question for October 5th and October 6th discussion. M. Moers asked how Workgroup A's SPE review compares to FIA's discussion of SPEs? M. Moers will get more information on the FIA's SPE program. R. Chaney asked whether the workgroup would have a full set of recommendations for the task force to vote on in October. It is expected that the workgroup will have recommendations prepared for consideration by the task force at its October meeting. R. Carter raised a question regarding whether the task force would vote on individual recommendations or the entire workgroup report. He expressed concern that recommendations should all be voted on at the end of the process rather than incrementally. D. Hoyle stated that the Task Force would need to identify some acceptable principles and beliefs of the Task Force in order for upcoming workgroups to be able to formulate their recommendations.
3. Discussion of October Preliminary Report: The Task Force will provide a status report in October of its activities over the past two months . At that time it will be possible to determine whether the status report will include any preliminary recommendations.

4. Updates from Workgroups C and F: Workgroup F, chaired by R. Chaney, will be giving a presentation at the October meeting. A copy of a handout of the revised principle was provided to members and meeting attendees.
5. Peggy Brey, presented the Workgroup C report on behalf of Sharon Gire. The workgroup has met 3 times, 4 meetings remaining. The workgroup has much to do prior to its final report scheduled for November. Revised language for vision statements 6 & 7, as well as the approaches or action steps contained in each of those. They have mapped out the existing care continuum including a matrix that identifies fund resources and access barriers for each service and setting. This will be used to develop the recommendations for what the ideal continuum would include. A number of subcommittees are looking at various items to expedite the process in order to be prepared to present to the Task Force in November. An Assisted Living sub-committee was established to research regulatory issues and restrictions related to licensure and using Medicaid funding for room and board and other than nursing facility settings. Long-term care quality sub-committee has agreed that quality should be defined and measured by the person receiving supports and not through surrogates such as payers, regulators, families, and professionals. Vision statement 6 will be reworked to reflect this change and focus and expand it to encompass both institutional and community-based care settings. Workgroup C has suggested to the Task Force Executive Committee that some items from Vision statement 5 be included in deliberation of Workgroup C.
6. New workgroups (chairs and charges). R. Chaney noted that Workgroups B, D, E, G have not yet started to meet. If they haven't already, interested parties who are not members of the task force can sign-up (during the week of September 13th only) if they wish to participate on one of these new workgroups. They should send an e-mail to John Hazewinkel. R. Chaney announced that Janet Olszewski will chair Workgroup B, Budget and Finance; Workgroup D, Workforce Development will be chaired by Representative Shaffer; Workgroup E, Education, Consumer Participation, and Monitoring, a chair has not yet been decided; and that Mark Cody will chair Workgroup G, Legislative and Regulatory.

Additional Medicaid Descriptive Statistic in Response to August 9 Meeting

Information Request: R. Chaney introduced Steve Bachleda, LTC Financial Analyst in the Medicaid Actuarial Division. Steve Bachleda returned to the LTC Task Force meeting to provide information addressing the questions that task force members had raised during his presentation at the August 9, 2004 meeting.

Meeting adjourned for lunch at 11:55 a.m.

The chairperson re-convened the Task Force at 1:05 p.m.

Public Comment:

David Wallace stated that he wanted to put a face on the issue of Long-term Care services and supports. He explained that he was injured in 1982 after which he lost his job at GM. He had only 7 ½ years of service with GM, and was not eligible for a pension. At the time of his injury he was going to school full-time to become an electrician on the trade. During service with GM he had contributed to social security took pride in fact that he was a contributing member of the workforce. He stated that he never imagined that he would end up disabled and be in need of long-term care supports. Currently he receives social security disability as his only income. Dave is now divorced, pays child support and has equal custody of his child after battling with the court. He was attending the Task Force meeting to convince Long-term Care policy makers that the benefits that he currently receives are critical to continue every day life. Any reduction of service hours from chore services would be damaging. He further noted that the pay rate for home help workers is too low and should be increased; it is hard to find workers right now. He described what he has to do to hire workers, train workers, and perform administrative functions of the employees noting that these are costly functions. The people who work for him have to pay taxes, bills, and they also contribute to communities. It is very hard to find people to work because of the amount of money, time, and no benefits. The workers get paid \$7 per hour. Dave has had home help services since 1997. The home help rates have never been increased since 1997.

His parents have taken the time to help him get rehabilitated and give him a place to stay until he finds a place to stay; however, his parents are getting older and can no longer care for him. He contributes to the community by advocating for other people with disabilities who do not have the supports that he has. He believes the money should follow the people and that the people who work for people with disabilities should have some kind of income and benefits so that they continue to help pay their taxes and contribute to the community. People in nursing homes probably wouldn't be there if they had help in the community. He is very concerned that the services he currently has will be taken away.

Amy Hackney stated that she turned 90 years old in June. Her husband died in 1962, before retirement so therefore she received no pension benefits. After her husband's death she had to work to help support her daughter and herself. At age 85 she used up all of her assets and, at that point, had to ask for help. The Medicaid Waiver provided her assistance which allowed her to live in her own apartment until the age 87. At 87 she had to move out of Village Green because of a roof leak and the facility had no other space available. She was placed in adult foster home. She was in the adult foster home for 3 or 4 weeks, became ill and was hospitalized. From the hospital she was sent to Burcham Hills nursing home although she doesn't feel that the nursing home is the appropriate place for her. Living in the nursing home she has no companionship. She would like to be in assisted living arrangement, but this isn't an option for her because Medicaid does not pay for it. She is capable of doing many things for herself and believes that assisted living would be a less expensive long-term care setting for her.

Eric Thomas lives in Flint. He is on the Habilitations Waiver Program for services, which provides him supports to be independent and a choice regarding how he wants to live his life. On September 20, 1997, when he became the victim of a shooting, he attended Lansing Community College and was studying photography. He worked at a local Meijers, worked for a marketing company in Okemos, and had a hip-hop career. He never thought that he would be in a position in which he would become disabled and need long-term care supports either. He required a ventilator and had to learn how to speak and communicate all over again. He was in the hospital from September 20, 1997 to March 20, 1998, and had no idea where he would go upon his discharge. His options were a nursing home or the Habilitations Waiver Program. His mother and her husband let him stay in his old room, but the Medicaid program didn't come into affect until he was at home. A disability network out of Flint came to his home and evaluated him to see the support services he needed. Without the network he would be in a much worse situation. The waiver program provides workers to come out in the morning and evening to take care of him. He requires a lot more services because of his physical condition. He noted that the Habilitations Waiver is a "blessing" compared to the services that David Wallace needs and receives. Eric noted that the difference in supports is due to the fact that David was injured after age 21 and he was under 21, which qualified him for services under the definition of a person with a developmental disability. He states that all waivers should be equal based on the services needed and should not be based on age. The waiver has allowed Eric to be able to write for a newspaper throughout the State of Michigan, and to own a corporation (which has no revenue because if it did his services would be taken away and make him pay for his services). He is also on a basketball team, attends LCC, and Wayne State University. These services are very important. The caps that they are trying to put on services are not realistic. They need to look at the individual.

Presentation: FIA AFC and Homes for Aged: R. Chaney introduced Deborah Wood.

Deborah is from FIA, Adult Foster Care and Homes for the Aged. She provided a number of handouts for the Adult Foster Care Facility Licensing Act (excerpt), Administrative Rules for Certification (excerpt), Public Health Code (excerpt), and Adult Foster Care/Home for the Aged Activity, licensing requirement, and the overview of Adult Foster Care & Homes for the Aged Licensing. Deborah provided information to the group regarding who needs adult foster care, placement of a resident, the application for licensing, and training opportunities. There is a place on the FIA website to file complaints with the Investigation and Disciplinary Action Division.

Senator Hammerstrom requested additional information on the map labeled "Number of AFC's Licensed to Serve Designated Populations" She asked whether facilities that are licensed to provide services for all three groups: aged, developmentally disabled, and mental illness, are reflected on this map. Ms. Wood noted that they are not, and that these would be in addition to the numbers reflected on the hand-out.

Briefing on the Eager Settlement: R. Chaney introduced Mark Cody and Alison Hirschel who provided a comprehensive overview and analysis of the Eager vs. Engler lawsuit filed in 2002. (A hand-out was provided to members and meeting attendees.) It was to re-open admission to the MI Choice home and community-based waiver program and to expand participation in that program. The program had been virtually closed to new admission since the fall of 2001. The settlement order to the Eager case was entered in February of 2004 and one element of this settlement was the creation of the Long-Term Care Task Force.

R. Chaney asked Mark Cody and Alison Hirschel to speak to the Task Force about the legal framework for the states efforts to rebalance the long-term care system. There are two crucial points that everyone needs to understand: 1) providing services and supports for people with disabilities in the most integrated setting possible is a federal law under the ADA as confirmed by the United States Supreme Court in the *Olmstead* case.. Michigan has significant legal obligations pursuant to the Americans with Disability Act and it has been slower to meet those obligations than many other states. 2) While the Eager case resulted in the creation of this Task Force and the reopening of the MI Choice program and a number of other steps toward rebalance the long-term care system. The Eager case was just a “baby step” toward true long-term care reform. What was achieved in Eager was the very first step. Now it is up to the Task Force working closely with the legislature and the administration to move the ball forward and achieve the true long-term care reform. Failure to do so will result in piecemeal changes by federal judges as litigants assert their rights under *Olmstead*.

Next Meeting date and agenda topics:

The next meeting for the Task Force will be held October 11, 2004 in the Mackinac Room, House Office Building, 5th fl.

Members of the Executive Committee were asked to remain for a short time after adjournment to set a date for a conference call.

Agenda topics for October meeting are: Follow-up report from Workgroup A. Workgroup F will present on Chronic Care. Recommendations for additional agenda items should be forwarded to the chairperson.

A motion to adjourn was made by S. Steinke, seconded by D. Hoyle and passed. The meeting adjourned at 3:15 p.m.